

Determination of Indigency

[Iowa Code section 815.9]

Definitions.

"Household income" includes the gross income of all members of the household in which an applicant lives. However, income of a spouse is not considered if the spouse is an alleged victim of the crime. Income of a child is not considered unless legal representation for the child is sought in a delinquency case.

"Assets" includes all property, real, personal, tangible, and intangible in which the applicant has an interest.

"Liabilities" includes all monthly debts and expenses for which applicant is responsible. Child support and alimony payments should be considered only when payments are made in a timely manner.

Evaluation of Eligibility.

An applicant whose household income is below 125% of the poverty income guideline is entitled to appointed counsel unless the court determines that the applicant is able to afford counsel considering the applicant's household income, assets subject to execution, liabilities, and the nature of the charge.

An applicant whose household income is between 125% and 200% of the poverty income guideline is not entitled to appointed counsel unless the court finds that not appointing counsel on the pending charge would constitute a substantial hardship on applicant, considering the applicant's household income, assets subject to execution, liabilities, and the nature of the charge.

An applicant whose household income is over 200% of the poverty income guideline is not entitled to appointed counsel unless the court finds that the applicant is charged with a felony and not appointing counsel on the pending charge would constitute a substantial hardship on applicant, considering the applicant's household income, assets subject to execution, liabilities, and the nature of the charge.

Juvenile Cases: In determining whether to appoint counsel for a parent, the court should consider not only the applicant's income, but also the availability of assets subject to execution and the nature of the proceedings.

If the applicant is a child, the income and assets of both parents should be considered, whether or not the parents live in the same household.